PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 112 *LCA* 65, *dated Bangdlore, 4th February* 1966.

Ordered that the Wakf (Amendment) Bill, 1965 (Rajya Sabha Bill No. XV of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 7th December 1965 be republished in the *Mysore Gazette* for General information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 7th December, 1965 :—

BILL NO. XV OF 1965

a bill further to amend the Wakf Act, 1954.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Wakf (Amendment) Act, 1965.

2. *Amendment of section* 3.—In section 3 of the Wakf Act, 1954 (29 of 1954) (hereinafter referred to as the principal Act), for clause (*g*), the following clause shall be, and shall be deemed always to have been, substituted, namely :—

'(*g*) "net annual income" in relation to a wakf means the gross income thereof from all sources in a year excluding—

(*i*) any land revenue, cess, rates and taxes payable to the Government or any local authority; and

(*ii*) donations given or offerings made with a specific direction that they shall form part of the corpus of the wakf :

Provided that the interest or income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income ;'.

3. *Amendment of section* 7.—In section 7 of the principal Act, in sub-section (1), for the words "by all the mutawallis in proportion to the income of the property of the wakfs situated in the State,", the words "by all the mutawallis of wakfs the net annual income whereof exceeds rupees one hundred, in proportion to the income accruing in the State to such wakfs ", shall be substituted.

4. *Amendment of section* 8B.—In section 8B of the principal Act, in sub-section (1), the words "of the properties" and the words "of the property" shall be omitted.

5. *Amendment of section* 46.—In section 46 of the principal Act, in sub-section (1), for the words "net annual income of such of its property as is situate in the State", the words "net annual income accruing to the warkf in the State" shall be, and shall be deemed always to have been, substituted.

6. *Validation of contributions paid or realised under section* 46.—Notwithstanding anything contained in any law or any judgment, decree or order of any court, all contributions paid or realised, or purporting to have been paid or realised, under section 46 of the principal Act which would have been validly paid or realised if the amendments made to the principal Act by this Act were in force on the date of such payment or

realisation, shall, for all purposes, be deemed to be, and to have always been, paid or realised in accordance with law and, accordingly—

(*a*) no suit or other legal proceeding shall be mantained or continued in any court for the refund of the whole or any part of the contribution so paid or realised; and

(*b*) no court shall enforce any decree or order directing the refund of the whole or any part of the contribution so paid or realised.

STATEMENT OF OBJECTS AND REASONS

The Wakf Act, 1954 was enacted to provide for the better administration and supervision of wakfs. So far, the Act has been amended twice, once in 1959 as a follow-up measure of the States Reorganisation Act, 1956 and later in 1964, for the purpose of making the working of the Wakf Boards, set up under the Act, more effective.

2. It is felt that it is necessary to further amend the Act in certain respects.

(1) Firstly, under the Wakf Act, 1954, the contribution payable by mutawallis of the wakfs to the Board of Wakfs has to be calculated with reference to the net annual income of the wakfs. Section 3 (*g*) of the Act which defines "net income" provides that net income means "the total income less any revenue, cess, rates and taxes payable to the Government or any local authority". The intention has always been that in computing net income, no deductions other than those expressly provided for in the definition should be permitted. A contrary view has been taken in a recent case by a Division Bench of the Kerala High Court and it has, therefore, become necessary to clarify the intention in clear-cut terms by substituting a new definition of "net annual income" for the existing definition of "net income" and to validate contributions already realised in accordance with such intention. It is also proposed to avail of this opportunity to set at rest certain doubts which have been expressed as to whether income of a wakf includes donations and offerings made to the wakfs.

(2) Scondly, it is proposed to amend sections 8B and 46 of the Act to bring them into conformity with the new definition of "net annual income".

(3) Thirdly, under section 7 of the Act, all wakfs, irrespective of their income, are liable to bear the cost of survey of wakfs. It is felt that this would be an unreasonable burden in the case of wakfs with limited income, such as warkfs whose net annual income does not exceed Rs. 100. In this connection, it, may be mentioned that such wakfs are already exempt from the liability to pay any contribution to the Board of Wakfs under section 46 of the Act. It is, therefore, proposed to amend section 7 of the Act suitably to exempt wakfs of the type mentioned, from the liability to bear the cost of survey of wakfs.

3. The Bill seeks to achieve the above objects.

NEW DELHI; HUMAYUN KABIR.

The 27th November, 1965.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.